

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

**Attorney Docket No. 14329US02**

In the Application of:

Kan Frankie Fan et al.

U.S. Serial No.: 10/774,028

Filed: February 6, 2004

For: SYSTEM AND METHOD FOR  
TEAMING

Examiner: Kevin S. Mai

Group Art Unit: 2152

Confirmation No.: 7734

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I hereby certify that this correspondence is being transmitted via EFS-Web to the United States Patent and Trademark Office on September 24, 2009.

/Michael T. Cruz/

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**REPLY TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is a reply to the Notification of Non-Compliant Appeal Brief mailed June 24, 2009 ("Notification"). A fee for a two-month extension of time is enclosed, thereby extending the deadline by which to reply to September 24, 2009.

As requested by the Notification, Appellants respectfully submit a revised version of the Summary of Claimed Subject Matter section for incorporation into the Appeal Brief filed May 21, 2009.

## SUMMARY OF CLAIMED SUBJECT MATTER

Some embodiments according to some aspects of the present invention may provide, for example, a system for communications as set forth, for example, in claim 1. The system may include, for example, a transport layer/network layer processing stack (e.g., TCP/IP stack 270) and an intermediate driver (e.g., intermediate driver 250). See, e.g., specification at pages 8-9, paragraph [27]; and FIG. 3. The intermediate driver (e.g., intermediate driver 250) may be coupled to the transport layer/network layer processing stack (e.g., TCP/IP stack 270) via a first miniport (e.g., teamable-virtual miniport instance 260) and a second miniport (e.g., RDMA-capable-virtual miniport instance 280). See, e.g., specification at pages 8-9, paragraph [27]; and FIG. 3. The first miniport (e.g., teamable-virtual miniport instance 260) may support teaming. See, e.g., specification at pages 8-9, paragraph [27]; page 9, paragraph [28]; and FIG. 3. The second miniport (e.g., teamable-virtual miniport instance 260) may be dedicated to a system that can offload traffic from the transport layer/network layer processing stack. See, e.g., specification at pages 8-9, paragraph [27]; pages 9-10, paragraph [29]; and FIG. 3.

Some embodiments according to some aspects of the present invention may provide, for example, a system for communications as set forth, for example, in claim 21. The system may include, for example, a first set of network interface cards (e.g., NICS 110 and 120) and an intermediate driver (e.g., intermediate driver 140). See, e.g., specification at page 7, paragraphs [22]-[23]; and FIG. 2. The first set of network interface cards (e.g., NICS 110 and 120) may include, for example, a second set (e.g., NIC 120) and a third set (e.g., NICS 110). See, e.g., specification at page 7, paragraphs [22]-[23]; and FIG. 2. The second set (e.g., NIC 120) may include, for example, a network interface card that is capable of offloading one or more connections. See, e.g., specification at page 7, paragraphs [22]-[23]; and FIG. 2. The third set (e.g., NICS 110) may include, for example, one or more network interface cards that are not capable of providing an offload path. See, e.g., specification at page 7, paragraphs [22]-[23]; and FIG. 2. The intermediate driver (e.g., intermediate driver 140) may be coupled to the second set (e.g., NIC 120) and to the third set (e.g., NICS 110). See, e.g., FIG. 2. The

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intermediate driver (e.g., intermediate driver 140) may be part of a host computer (e.g., host computer 100) and may support teaming over the second set (e.g., NIC 120) and the third set (e.g., NICS 110). See, e.g., specification at pages 6-7, paragraph [21]. The host computer (e.g., host computer 100) may support iWARP traffic. See, e.g., specification at pages 8-9, paragraph [27]. The fail over and the teaming may only be performed by the host computer and/or one or more of the network interface cards. See, e.g., specification at pages 5-6, paragraph [18].

Some embodiments according to some aspects of the present invention may provide, for example, a method for communicating as set forth, for example, in claim 26. The method may include, for example, one or more of the following: teaming a plurality of network interface cards (e.g., NICS 110 and 120) using an intermediate driver (e.g., intermediate driver 140) of a host computer (e.g., host computer 100), wherein the teaming is only performed by the host computer (e.g., host computer 100) and/or the plurality of network interface cards (e.g., NICS 110 and 120) (see, e.g., specification at pages 5-6, paragraph [18]), wherein plurality of network interface cards (e.g., NICS 110 and 120) support remote direct memory access (RDMA) traffic (see, e.g., specification at pages 7-8, paragraph [24]); adapting at least one network interface card (e.g., NIC 120) of the plurality of network interface cards to provide an offload path (see, e.g., specification at page 7, paragraph [23]); and adapting remaining network interface cards (e.g., NICS 110) of the plurality of network interface cards not to provide an offload path (see, e.g., specification at page 6, paragraph [20]). See also, e.g., FIG. 2.

Some embodiments according to some aspects of the present invention may provide, for example, a method for communicating as set forth, for example, in claim 28. The method may include, for example, one or more of the following: teaming a plurality of network interface cards (e.g., NICS 110) of a host computer (e.g., host computer 100) (see, e.g., specification at pages 5-6, paragraph [18], the plurality of network interface cards (e.g., NICS 110) not providing an offload path that bypasses a kernel of the host computer (e.g., NICS 110) (see, e.g., specification at page 7, paragraphs [22]-[23]; and FIG. 2.); adding an additional network interface card (e.g., NIC 120) to the host computer (e.g., host computer 100) (see, e.g., specification at pages 6-7, paragraph [21]), the

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additional network interface card providing an offload path that bypasses the kernel of the host computer (e.g., host computer 100) (see, e.g., specification at page 7, paragraph [23]; teaming the plurality of network interface cards (e.g., NICS 110) and the additional network interface card (e.g., NIC 120) (see, e.g., specification at pages 6-7, paragraph [21]); and providing layer 2 load balancing over the plurality of network interface cards and the additional network interface card (see, e.g., specification at pages 5-6, paragraph [18]; and specification at page 8, paragraph [26]).

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## **REMARKS**

This paper is a reply to the Notification of Non-Compliant Appeal Brief mailed June 24, 2009 ("Notification").

The Notification indicates that the Summary of Claimed Subject Matter was found to be defective and that only the alleged defective section need be submitted.

As requested by the Notification, Appellants respectfully submit a revised version of the Summary of Claimed Subject Matter section for incorporation into the Appeal Brief filed May 21, 2009.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Dated: September 24, 2009

Respectfully submitted,

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